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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	)	
	)	
1998 Biennial Regulatory Review	)	CC Docket No. 98-117
Review of ARMIS Reporting	)	
Requirements	)	
	)	

REPLY COMMENTS OF BELLSOUTH

BellSouth Corporation and BellSouth Telecommunications, Inc. ("BellSouth") hereby reply to the Comments made in response to the Notice of Proposed Rulemaking ("Notice"), FCC 98-117, released July 17, 1998, in the captioned proceeding.

I. Introduction.

BellSouth fully demonstrated in its comments that price cap regulation obviates the Commission's need for the data currently required to be reported in the ARMIS reports. The majority of the parties filing comments recognized this fact and offered the same reasoning.[1] No credible evidence was presented to suggest otherwise.[2] The Commission cannot ignore this fact.

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[1] *See*, United States Telephone Association ("USTA") Comments at 4 ("price cap regulation breaks the link between costs and rates"); U S West, Inc. Comments at 5 ("Under price cap regulation, cost of service no longer bears a direct relationship to the prices charged for any given product or service"); Ameritech Comments at 2 ("There is simply no public interest reason to require no-sharing price cap carriers to incur the cost of obtaining, compiling, and reporting this information); Bell Atlantic Comments at 3 ("Price caps broke the link between rates and costs by setting limits on prices based on an industry-wide productivity factor and an inflation adjustment."); GTE Comments at 6 ("Price cap regulation removes incentives for carriers to engage in improper cost allocations by preventing price cap carriers from being able to benefit from improper cost allocations."); SBC LEC Comments at 4 ("...in view of price cap regulation, the Commission has little, if any, continuing need for much of the data in the ARMIS reports, whether or not it relates to regulated services.").

[2] One party filed comments suggesting specious reasons that the data in the ARMIS reports is needed to monitor price cap regulation. MCI Comments at 4-6.These comments offer no link between the information reported in ARMIS reports and the reasons the party cites for needing to continue current ARMIS reporting. BellSouth addresses these comments below.

It must address this point and provide sound reasoning why the information reported in ARMIS is needed for the regulation of price cap carriers, or streamline the reports to eliminate the unnecessary information. BellSouth contends that once the Commission evaluates the ARMIS reports on this basis it will reach the only logical conclusion and streamline the reports for all carriers. Accordingly, the BellSouth supports the proposal submitted by the United States Telephone Association ("USTA") to completely eliminate most of the reports. In the alternative, BellSouth supports the proposal it submitted in its comments.

II. Comments In Opposition to Streamlining ARMIS Reports Are Erroneous and Provide No Basis to Support Their Assertions.

A. MCI's Comments.

MCI prefaces its Comments in opposition to streamlining the ARMIS reports by re-asserting arguments it posed in its Comments in Docket 98-81. BellSouth addressed these issues in its Reply Comments in the same docket and does not repeat its remarks here, but incorporates its Reply Comments in Docket 98-81 herein by reference.

1. MCI's Comments Opposing Streamlining ARMIS Financial Reports (43-01, 43-02, 43-03, and 43-04) are Without Merit.

MCI sets forth several allegations in its comments to argue that the Commission continues to need accounting information and cost allocation detail for price cap carriers that is currently provided in certain ARMIS financial reports. MCI does not, however, provide a link between those allegations and the information reported in ARMIS. Specifically, MCI asserts that the " price cap plan continues to permit a low-end adjustment when an ILEC's interstate rate of return falls below 10.25 percent," and that "price cap rules permit ILECs to file rate increases that exceed their applicable price cap indices." BellSouth does not dispute that the price cap rules permit these events, but strongly disputes any suggestion that the information reported in ARMIS

is adequate to determine whether a price cap carrier is entitled to either a low-end adjustment or rate increase above the applicable price cap.

MCI implies that if a price cap LEC were to seek a low-end adjustment or a rate increase above its applicable price cap that the Commission would simply review the ARMIS data to determine if the request is warranted. Should a LEC make such a request, however, it would be required to submit the relevant accounting information to the Commission to support its request. The Commission would allow any interested party, including MCI, the right to scrutinize the accounting information and provide comment on its merits. Indeed, it is doubtful that the accounting information needed for such a request is even included in the ARMIS reports. Before the Commission requires price cap LECs to continue the burdensome task of current ARMIS compliance, MCI should be required to explain the data it claims is reported in ARMIS that is needed to support a low-end adjustment or a rate increase above applicable price caps.

Moreover, these types of events are the exception and not the rule. They rarely occur, and price cap LECs should not be required to continue the burdensome task of ARMIS reporting on the outside chance that such an event could occur. Thus, even if the information needed to evaluate these events were included in ARMIS, the Commission should not continue to require price cap LECs to maintain the current ARMIS reporting requirements based on a remote contingency. Efficiency requires the ARMIS reports not be continued for this purpose, but that the requesting carrier simply report the needed information upon making a request.

MCI further alleges that price cap LECs continue to compute exogenous charges and develop subscriber line charges "with reference to accounting costs." Once again MCI fails to even attempt to link the information contained in the ARMIS reports to its allegations. In fact, the accounting information needed for the calculation of exogenous charges and development of

subscriber line charges is not included in ARMIS. Bell Atlantic demonstrated this in its comments.

> Cost estimates are used in price caps for very few limited purposes – such as to establish a forecast of 'base factor portion' costs as a limit on the subscriber line charge, and to calculate various exogenous adjustments. In almost all cases, these data are not shown in ARMIS. These limited cost data are evaluated through the more focused information that the price cap carriers submit in the annual tariff plans. Consequently, there is no longer a need for regular, comprehensive ARMIS reports for Part 32 costs (Form 43-02), joint cost allocations (Form 43-03), separations and access charge data (Form 43-04), comparisons of forecast and actual non regulated usage costs (Forms 495A and 495B), or summaries of these data (Form 43-01).[3]

MCI next claims that elimination of ARMIS report 43-03 "would prevent the Commission from monitoring the extent to which ILECs are allocating costs using direct assignment, indirect attribution, or the general allocator." This statement completely overlooks the Cost Allocation Manual ("CAM") that the LECs are required to file. The CAM lists all the cost pools and indicates those that are direct assignment, those that are indirect attribution, and those that use the general allocator. Furthermore, the CAM provides more detail than ARMIS. The CAM lists individual cost pools and indicates whether the specific cost pool is directly assigned or not. [4]

Finally, for the ARMIS financial reports, MCI comments that "[t]he Commission should not expend its limited resources on the extensive redesign of ARMIS reports that would be required by the proposed consolidation." BellSouth does not dispute that the proposals submitted by USTA or the other LECs would require a limited amount of Commission resources to implement. These resources, however, are insignificant compared to the savings

[3] Bell Atlantic Comments at 3.

[4] Of course, as discussed above, the issue of cost allocation is moot under price cap regulation.

the Commission will reap once the proposals are in place. The Commission could re-deploy personnel currently used to monitor ARMIS reports to more worthwhile activities within the Commission thereby making wise use of its "limited resources."

2. MCI's Comments Opposing Streamlining ARMIS Network Reports (43-05, 43-06, 43-07, and 43-08) is Without Merit.

In its comments, MCI takes the opportunity to not only oppose the reduction of the needless regulation imposed on LECs by the ARMIS network reports, but proposes that the Commission expand ARMIS' service quality and network infrastructure reporting requirements. MCI cites the LEC Price Cap Order[5] for the proposition that the Commission needs expanded ARMIS reporting to evaluate the impact of price regulation to "... ensure that ... [it] continues to 'encourage LECs to develop their infrastructure and promote innovation through the introduction of new service offerings.'" The Commission, however, has collected extensive data from the price cap LECs concerning their infrastructure investment under price cap regulation. The data demonstrate conclusively that the concerns used to justify the initial reporting requirements, i.e., that the LECs might withhold needed investment in their networks in pursuit of short term profits, were unfounded. Under such circumstances, the 1996 Act requires the Commission to eliminate, not expand, the unnecessary regulatory burdens that these reporting requirements impose.

The reality in the marketplace is clear. Incumbent LECs have upgraded their networks to provide new and innovative services to meet their customers' demand in a competitive marketplace. These upgrades were made in order to thrive in the market, not because of some regulatory reporting requirement. Even in areas where competition is not yet prevalent, large

[5] In the Matter of Policy and Rules Concerning Rates for Dominant Carriers, *Second Report and Order*, 5 FCC Rcd 6786 (1990)("LEC Price Cap Order").

LECs have tried to increase their profitability by marketing new services to existing customers. Thus, the incumbent LECs have a strong incentive to provide good service and invest in infrastructure if that service and investment will encourage customers to purchase additional products and services. Accordingly, the service and infrastructure reports should be eliminated, not expanded, because they are no longer relevant.

Another allegation made by MCI in it Comments is that the Commission should expand the scope of the service quality and infrastructure reports of ARMIS to fulfil its statutory obligations pursuant to universal service[6] requirements.[7] In the Universal Service Order, however, the Commission intentionally refused to adopt reporting requirements for universal service, instead finding that the imposition of additional service quality reporting requirements at the federal level would largely duplicate states' efforts and would be "inconsistent with the 1996's Act's goal of a pro-competitive, deregulatory national policy framework."[8]

Even the current ARMIS reports do not support universal service issues and therefore are not needed for the purpose suggested by MCI. ARMIS reports 43-05 (service) and 43-07 (infrastructure) provide data at the company and state level. They do not, however, provide any specific data and are of no value to the Commission relative to specific universal service requirements, including those related to rural health care providers, schools and libraries, and other related entities. Moreover, the overwhelming majority of service providers for rural areas,

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[6] In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Report & Order, ("Universal Service Order"), 12 FCC Rcd 8776 (1997). ¶ 99.

[7] MCI mis-characterized the Commission's reference to ARMIS in the Universal Service Order. The Commission stated "[i]n addition to relying upon existing data collection mechanisms, such as ARMIS, the Commission will conduct any surveys or statistical analysis that may be necessary to make the evaluations required by section 254 (c) (1) to change the definition of universal service." Pursuant to discussion below, the Commission's reference to ARMIS was obviously for illustrative purposes because, with the exception of ISDN, ARMIS does not provide any service specific data.

[8] Universal Service Order, ¶ 99.

predominantly small LECs, are not required to file service quality and infrastructure reports. Thus, obtaining service quality and infrastructure information from only a small subset of universal service providers renders the results meaningless. Consequently, the Commission should not only refuse to expand the ARMIS reporting requirements for universal service purposes, but should not maintain the current ARMIS reporting requirements for the purpose of fulfilling any universal service data needs.

MCI also asserts that the Commission has the obligation, pursuant to Section 706 of the Telecommunications Act of 1996, to encourage deployment of advanced telecommunication services. MCI seeks to further expand ARMIS reporting on the theory that the Commission will need to collect data on the "advances in network technology that could, if deployed by the ILECs, support advanced telecommunication services." MCI offers no justification for the need to collect such data. Congress expressly rejected such "regulation for regulation's sake" requirements in Section 11 of the 1996 Act.

These advanced technologies are not the exclusive province of the large incumbent LECs. Other LECs, interexchange carriers such as AT&T,[9] MCI, and WorldCom,[10] and competitive local exchange carriers ("CLEC") have deployed these new technologies. To monitor only the deployment of these technologies by mid-sized and large LECs does not provide meaningful information on the overall deployment of these advanced technologies. If the Commission believes that it is necessary to monitor the deployment of these technologies to fulfill its statutory duties, then it should expand the reporting requirement to include all carriers

[9] AT&T recently completed a merger with Teleport Communications Group. This merger gives AT&T immediate access to the business local market, allowing them to offer integrated services in several major cities.

[10] WorldCom has recently completed purchases of Brooks Fiber and Metropolitan Fiber Services ("MFS") giving them a major local presence in many cities. Additionally, WorldCom and MCI are in the process of merging.

deploying such technology. By contrast, if it is not necessary to gather such information from all carriers, imposing new reporting requirements only on a few LECs can hardly be justified.

Finally, MCI asserts that pursuant to the "ILECs duty to provide nondiscriminatory access to network elements," the Commission has an obligation to "collect comprehensive information about the architecture of the ILECs network." BellSouth fails to see the logic in this assertion. ARMIS does not collect this type of data and was never intended to do so. Furthermore, if the Commission determines that such information is needed, it should specially develop reports for that purpose, not attempt to expand the ARMIS reports.

B. AT&T Comments.

AT&T supports the reporting of the ARMIS reports on the internet, but arrogantly requests the Commission to require that all reporting entities "submit their ARMIS reports in LOTUS spreadsheets." BellSouth is in the process of migrating the ARMIS reporting systems to the EXCEL format. In fact, the entire ARMIS system will be converted to EXCEL for the 1998 filing period. Reverting back to LOTUS would require the operation of dual systems and would increase rather than decrease preparation expenses. Thus, implementation of LOTUS would be a step backwards.

Moreover, under the current reporting procedure, reporting entities must file an ASCII formatted file on diskette with the Commission. The Commission does not use LOTUS to process the ASCII files. To produce LOTUS spreadsheets would require the Commission to provide an edit check program to compare data in the two different systems for consistency. Accordingly, if AT&T wants this information in LOTUS format it should be required to convert the information to that format itself.

AT&T opposes the Commission's proposal to decrease regulation for mid-sized LECs, which implicitly opposes the proposals made by USTA and the price cap LECs, including BellSouth, to decrease ARMIS reporting requirements for all LECs. As a basis for this opposition, AT&T asserts that "the Commission's ARMIS reporting requirements are part of the Commission's regulatory tools to ensure that prices are just, reasonable, and nondiscriminatory in order to protect consumers." As BellSouth has demonstrated, and AT&T is well aware,[11] price cap regulation provides adequate protection for just and reasonable rates and ARMIS reporting requirements are no longer needed.

C. GSA Comments.

The Government Services Administration ("GSA") commented that the Commission should continue current ARMIS reporting requirements of large LECs. The GSA stated that a reduction of these requirements for large LECs "would impair the Commission's ability to guard against improper cost allocations, to assess the impact of its policies on ILECs, and to monitor the development of competition in the telecommunications marketplace." GSA makes only generic comments in its reference to maintaining the status quo; however, GSA fails to provide any specific data from the ARMIS reports, or elsewhere, that would justify continuing such archaic reporting requirements. Specifically, BellSouth questions to which policies GSA refers when it asserts that ARMIS will help the Commission "assess the impact of its policies," and what information from ARMIS helps the Commission "monitor the development of competition?" Any concerns raised by these items are either properly alleviated by price cap regulation, or the items were never intended to be achieved by the current ARMIS reporting

[11] *See, e.g.*, AT&T Comments at 11-12 filed In the Matter of Amendment of Parts 32 and 64 of the Commission's Rules to Account for Transactions Between Carriers and Their Nonregulated Affiliates, CC Docket No. 93-251.

requirements. Accordingly, GSA's flawed propositions do not justify the continuance of ARMIS reporting requirements for price cap LECs.

Conclusion

BellSouth fully supports the Commission's proposal to reduce ARMIS reporting requirements for mid-sized LECs. Unfortuently, the Commission fell far short of its statutory obligation to eliminate other regulation that is no longer in the public interest. No other regulation is more ripe for elimination than the ARMIS reporting requirements. These requirements have simply outlived their usefulness under price cap regulation. The Comments provided in opposition offered no credible evidence to deny significant elimination of such requirements. The Commission should therefore adopt the proposal submitted by USTA, or in the alternative the proposal submitted by BellSouth, to streamline the ARMIS reporting requirements.

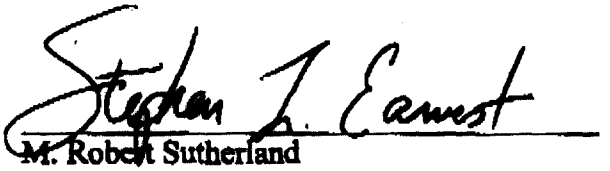
Adoption of the either the USTA or BellSouth proposal not only succeeds in fulfilling the Commission's statutory obligation for reducing unneeded regulation, but would free up valuable resources within the Commission that even MCI recognized as limited. Indeed, the Commission now devotes substantial staff resources to implementing ARMIS reporting requirements that serve no useful purpose when applied to price cap LECs. The Commission staff resources, which would be freed by adopting either the USTA or BellSouth proposals, could be redeployed to areas were the Commission has recognized a need, such as enforcement of the Rules against harmful interference.[12] BellSouth urges the Commission to move aggressively in this and other biennial review proceedings to reduce unnecessary regulation and to redeploy the

[12] *See*, Commissioner Susan Ness' separate statement to the Report and Order in ET Docket 97-94 calling for the reallocation of resources freed up due to eliminating unnecessary regulation to enforcement of the rules against harmful interference. Streamline the Equipment Authorization Process for Radio Frequency Equipment, ET Docket No. 97-94, Report and Order, FCC 98-58,

staff resources freed up thereby to areas where active regulation is still necessary to protect the public interest. Implementation of the USTA or BellSouth proposals would provide staff resources for such redeployment resulting in a "win-win" outcome for the Commission and the public.

Respectfully submitted,

BELLSOUTH CORPORATION AND BELLSOUTH TELECOMMUNICATIONS, INC.
By their Attorneys:



M. Robert Sutherland
Stephen L. Earnest

BellSouth Corporation
Suite 1700
1155 Peachtree Street, N.E.
Atlanta, GA 30309-3610
(404) 249-2608

Date: September 4, 1998

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released April 16, 1998, 63 Fed. Reg. 36591 (July 7, 1998), Separate Statement of Commissioner Susan Ness.

CERTIFICATE OF SERVICE

I do hereby certify that I have this 4th day of September 1998 served the following parties to this action with a copy of the foregoing REPLY COMMENTS by hand delivery or by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties listed on the attached service list.

Juanita H. Lee

Juanita H. Lee

SERVICE LIST CC DOCKET NO. 98-117

Carolyn C. Hill
ALLTEL Communications Services Corporation
655 15th Street, N. W.
Suite 220
Washington, D. C. 20005

Leander R. Valent
Ameritech
9525 West Bryn Mawr, Suite 600
Rosemont, Illinois 60018

Judy Sello
Mark C. Rosenblum
AT&T Corporation
Room 3245I1
295 North Maple Avenue
Basking Ridge, New Jersey 07920

Joseph DiBella
Bell Atlantic Telephone Companies
1320 N. Court House Road
8th Floor
Arlington, VA 22201

Nancy Rue
Cincinnati Bell Telephone Company
FROST & JACOBS LLP
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

Michael J. Shortley, III
Frontier Telephone Companies
180 South Clinton Avenue
Rochester, New York 14646

Shavely King Majoros O'Connor & Lee, Inc.
General Services Administration
1220 L Street, N. W., Suite 410
Washington, D. C. 20005

Emily C. Hewitt
George N. Barclay
Michael J. Ettner
General Services Administration
1800 F Street, N. W., Room 4002
Washington, D. C. 20405

John F. Raposa
GTE Service Corporation
600 Hidden Ridge, HQE03J27
P. O. Box 152092
Irving, TX 75015-2092

Andre J. Lachance
GTE Service Corporation
1850 M Street, N. W.
Washington, D. C. 20036

David W. Zesiger
Executive Director
Independent Telephone & Telecommunications Alliance
1300 Connecticut Avenue, Suite 600
Washington, D. C. 20036

Robert M. Lynch
Durward D. Dupre
Darryl W. Howard
Jonathan W. Royston
Southwestern Bell Telephone Company
Pacific Bell
Nevada Bell
One Bell Plaza, Room 3022
Dallas, Texas 75202

Jay C. Keithley
Sprint Local Telephone Companies
1850 M Street N. W., 11th Floor
Washington, D. C. 20036-5807

Sandra K. Williams
Sprint Local Telephone Companies
P. O. Box 11315
Kansas City, MO 64112

Lawrence E. Sarjeant
Linda L. Kent
Keith Townsend
John W. Hunter
United States Telephone Association
1401 H Street, N. W., Suite 600
Washington, D. C. 20005

James T. Hannon
U S West, Inc.
Suite 700
1020 19th Street, N. W.
Washington, D. C. 20036

Daniel L. Poole
Kathryn A. Zachem
J. Wade Lindsay
U S West, Inc.
Wilkinson, Barker, Knauer & Quinn LLP
2300 N Street, N. W.
Washington, D. C. 20037

Alan Buzacott
MCI Telecommunications Corporation
1801 Pennsylvania Avenue, N. W.
Washington, D. C. 20006